

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

LESTER LEE SCARBROUGH, JR.,

Plaintiff,

v.

9:09-CV-0850

**MR. EVANS, OMH Social Worker; SMITH,
Nurse Administrator; R.N. SMITH;
VITALINE LaPAGE, Corrections Counselor;
and JOSEPH BELLNIER, Upstate Correctional
Facility,**

Defendants.

APPEARANCES:

OF COUNSEL:

LESTER LEE SCARBROUGH, JR.
08-B-0351
Upstate Correctional Facility
P.O. Box 2001
Malone, NY 12953
Plaintiff, *pro se*

HON. ANDREW M. CUOMO
New York State Attorney General
The Capitol
Albany, NY 12224
Counsel for Defendants

CHRISTINA ROBERTS-RYBA, ESQ.
Assistant Attorney General

NORMAN A. MORDUE, CHIEF U. S. DISTRICT JUDGE

ORDER

The above matter comes to me following a Report-Recommendation by Magistrate Judge David E. Peebles, duly filed on the 10th day of August 2010. Following ten days from the service thereof, the Clerk has sent me the file, including any and all objections filed by the parties herein.

After careful review of all of the papers herein, including the Magistrate Judge's Report-

Recommendation, and no objections submitted thereto, it is

ORDERED that:

1. The Report-Recommendation is hereby adopted in its entirety.
2. The Defendants' motions to dismiss (Dkt. Nos. 24, 36) are granted, and Plaintiff's complaint in this action is dismissed, with leave to replead.

3. The Clerk of the Court shall serve a copy of this Order upon all parties and the Magistrate Judge assigned to this case.

IT IS SO ORDERED.

Dated: August 31, 2010
Syracuse, New York



Norman A. Mordue
Chief United States District Court Judge